

MONTANA LEGISLATIVE HISTORY

Chapter 538 1987

Bill H 831 S _____

Original bill & history ☒ c

H. Committee on Natural Resources

Hearing Date(s) 2/20 ☒ c

_____ c

_____ c

_____ c

Date Out

2/20 ☒ c

S. Committee on Natural Resources

Hearing Date(s) 3/18 ☒ c

_____ c

_____ c

~~xxx~~ 3/18 ☒ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/16 TABLED IN COMMITTEE

HB 827 INTRODUCED BY WINSLOW
ESTABLISHES A MORATORIUM ON COAL SEVERANCE AND GROSS
PROCEEDS TAXES

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/19 TABLED IN COMMITTEE

HB 828 INTRODUCED BY COHEN
PROVIDE MEANS OF COMPENSATION TO PUBLIC SERVICE
COMMISSION HEARING INTERVENOR

2/18 INTRODUCED
2/18 REFERRED TO BUSINESS & LABOR
2/19 FISCAL NOTE REQUESTED
2/20 HEARING
2/20 TABLED IN COMMITTEE
2/23 FISCAL NOTE RECEIVED

HB 829 INTRODUCED BY QUILICI, ET AL.
IMPOSE 20 PERCENT SURTAX ON INDIVIDUALS AND
CORPORATIONS -- 20 PERCENT OF REVENUE TO
UNIVERSITY SYSTEM

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/10 HEARING
3/19 TABLED IN COMMITTEE

HB 830 INTRODUCED BY KEENAN, ET AL.
EXEMPTS ENVIRONMENTAL REVIEWS FROM THE SMALL MINER
CONFIDENTIALITY PROVISION

2/18 INTRODUCED
2/18 REFERRED TO NATURAL RESOURCES
2/20 HEARING
2/20 TABLED IN COMMITTEE

HB 831 INTRODUCED BY HOLLIDAY, ET AL.
REQUIRES LICENSING OF WELL PUMP INSTALLERS AND
MONITORING WELL CONSTRUCTORS
BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES &
CONSERVATION

2/18 INTRODUCED
2/18 REFERRED TO NATURAL RESOURCES
2/19 FISCAL NOTE REQUESTED
2/20 HEARING
2/20 COMMITTEE REPORT--BILL NOT PASSED
2/21 ADVERSE COMMITTEE REPORT REJECTED 87 8
2/23 2ND READING PASSED AS AMENDED 86 7
STATEMENT OF INTENT ADOPTED
2/23 FISCAL NOTE RECEIVED
2/25 3RD READING PASSED 89 6

TRANSMITTED TO SENATE
3/02 REFERRED TO NATURAL RESOURCES
3/18 HEARING

HOUSE FINAL STATUS

3/19	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/23	2ND READING CONCURRED	48	0
3/25	3RD READING CONCURRED	49	0
RETURNED TO HOUSE WITH AMENDMENTS			
4/08	2ND READING AMENDMENTS CONCURRED	93	0
4/09	3RD READING AMENDMENTS CONCURRED	90	6
4/11	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/13	TRANSMITTED TO GOVERNOR		
4/17	SIGNED BY GOVERNOR		
CHAPTER NUMBER 538		EFFECTIVE DATE: 7/01/87	

HB 832 INTRODUCED BY GOULD, ET AL.
NET INCOME TAX ON VIDEO POKER MACHINES

2/18	INTRODUCED
2/18	REFERRED TO TAXATION
2/19	FISCAL NOTE REQUESTED
3/02	FISCAL NOTE RECEIVED
3/09	REFERRED TO BUSINESS & LABOR
3/16	HEARING
3/26	TABLED IN COMMITTEE

HB 833 INTRODUCED BY RAMIREZ, ET AL.
CONSTITUTIONAL LIMITS ON STATE AND LOCAL GOVERNMENT
TAXATION

2/18	INTRODUCED
2/18	REFERRED TO TAXATION
3/11	HEARING
3/20	COMMITTEE REPORT--BILL PASSED AS AMENDED
3/24	2ND READING NOT PASSED AS AMENDED
	50 50

HB 834 INTRODUCED BY RAMIREZ, ET AL.
RESTRICTIONS ON STATE TAXATION -- REFERENDUM ON
STATUTE

2/18	INTRODUCED
2/18	REFERRED TO TAXATION
2/19	FISCAL NOTE REQUESTED
3/02	FISCAL NOTE RECEIVED
3/11	HEARING
3/19	TABLED IN COMMITTEE

HB 835 INTRODUCED BY GRADY, ET AL.
ESTABLISH STATE COMPENSATION PLANS/BENEFIT LEVELS --
1988-89 PAY INCREASES

2/18	INTRODUCED
2/18	REFERRED TO STATE ADMINISTRATION
3/17	HEARING
3/17	TABLED IN COMMITTEE
3/19	FISCAL NOTE REQUESTED
3/30	FISCAL NOTE RECEIVED

HB 836 INTRODUCED BY NATHE, ET AL.
UNIVERSITY SYSTEM SUBJECT TO LEGISLATIVE
APPROPRIATION
BY REQUEST OF HOUSE APPROPRIATIONS COMMITTEE

2/19	INTRODUCED
2/19	REFERRED TO APPROPRIATIONS

1 House BILL NO. 831
 2 INTRODUCED BY William Eckhoff
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES
 4 AND CONSERVATION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING LAWS RELATING
 7 TO THE BOARD OF WATER WELL CONTRACTORS; INCREASING THE
 8 COMPENSATION FOR BOARD MEMBERS TO \$50 A DAY; ALLOWING FOR
 9 LICENSING OF MONITORING WELL CONSTRUCTORS AND WATER WELL
 10 PUMP INSTALLERS; REQUIRING BONDS FOR MONITORING WELL
 11 CONSTRUCTORS AND WATER WELL PUMP INSTALLERS; AMENDING
 12 SECTIONS 37-43-101, 37-43-102, 37-43-201 THROUGH 37-43-203,
 13 37-43-301 THROUGH 37-43-303, 37-43-305 THROUGH 37-43-308,
 14 37-43-312, 37-43-401, AND 37-43-402, MCA; REPEALING SECTION
 15 37-43-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 37-43-101, MCA, is amended to read:

19 "37-43-101. Purpose. It is the purpose of this chapter
 20 to reduce and minimize the waste and contamination of
 21 groundwater resources within this state by reasonable
 22 regulation and licensing of drillers or makers of water
 23 wells in this state and monitoring wells and installers of
 24 pumping equipment and to protect the health and general
 25 welfare by providing a means for the development of the

1 natural resource of underground water in an orderly,
 2 sanitary, and reasonable manner. The reasonable regulation
 3 and licensing of drillers or makers of water wells and
 4 monitoring wells and installers of pumping equipment is in
 5 the best interest of the public, and the waste and
 6 contamination of groundwater resources through inefficient
 7 or incompetent operations of drillers or makers of water
 8 wells and monitoring wells and installers of pumping
 9 equipment is prohibited. For the protection of the public
 10 and for the conservation of underground water resources, it
 11 is necessary that standards be set and maintained to insure
 12 that competency in the drilling and making of water wells
 13 and monitoring wells and installation of pumping equipment
 14 in this state is obtained."

15 Section 2. Section 37-43-102, MCA, is amended to read:

16 "37-43-102. Definitions. Unless the context requires
 17 otherwise, in this chapter the following definitions apply:

18 (1) "Apprentice water well driller" means an
 19 individual who is learning the trade of water well drilling
 20 and performs labor and services for a licensed water well
 21 contractor and whose duties are directly related to well
 22 drilling or drilling rig operation.

23 (2) "Board" means the board of water well
 24 contractors provided for in 2-15-3307.

25 (3) "Department" means the department of natural

resources and conservation provided for in Title 2, chapter 15, part 33.

(4) "Monitoring well" means a well that is used for monitoring groundwater quality or flow direction but is not used for withdrawing groundwater for purposes other than water quality sampling or pump testing.

(5) "Monitoring well constructor" means a natural person who drills or supervises the drilling of monitoring wells.

(6) "Pumping equipment" means a pump or other device used or intended for use in withdrawing or obtaining groundwater from a well, including but not limited to well seals and other safeguards to protect groundwater from contamination.

(7) "Pump installer" means a person who installs or repairs pumping equipment for compensation.

(8) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of groundwater. The term does not include spring development or excavations, by backhoe or otherwise, for recovery and use of surface waters or for the purpose of stock watering or irrigation where the depth is 25 feet or less. The term does not include an excavation made for the purpose of obtaining

or prospecting for oil, natural gas, minerals, or products of mining or quarrying or for inserting media to repressure oil- or natural-gas-bearing formations or for storing petroleum, natural gas, or other products.

(9) "Water well contractor" or "contractor" means a natural person who contracts on behalf of a firm, corporation, partnership, or other business entity to construct, alter, or rehabilitate a water well on lands other than his own for compensation.

(10) "Water well driller" or "driller" means any person, other than an apprentice, at a drilling site causing a water well to be drilled, altered, or rehabilitated."

Section 3. Section 37-43-201, MCA, is amended to read:

"37-43-201. Seal Organization -- seal -- compensation of members. (1) The board shall annually elect a chairman and vice-chairman.

(2) The board shall have a seal with the words engraved thereon, "Board of Water Well Contractors", and such seal shall be affixed to all writs, authentication of records, and other official proceedings of the board. The courts of this state shall take judicial notice of such seal.

(3) Each appointed member of the board who is not a government employee shall receive as compensation for his services the sum of \$20 \$50 per day for each day actually

engaged in the performance of the duties of his office, including time of travel between his home and the places at which he shall perform such duties, together with mileage and per diem expenses as provided for in 2-18-501 through 2-18-503. ~~The state-engineer, the director of--environmental sanitation--of--the state-board-of-health, and other members who are~~ employees of the state of Montana shall receive no extra compensation for their services as members of the board."

Section 4. Section 37-43-202, MCA, is amended to read:

"37-43-202. Powers and duties. (1) The board may exercise the authority granted to it by this chapter.

(2) The board shall adopt rules and orders to effectuate this chapter.

(3) The board shall adopt rules to establish mandatory water well construction standards and enforcement procedures ~~by--January--1,--1987~~. The standards must address the protection of the drilling site; specifications for casing materials; materials and specifications for well screens; casing perforations; well development procedures; proper sealing and grouting; temporary capping; cleaning and disinfecting; bonds; guaranties; contractors' and drillers' qualifications; tests for yield and drawdown; reporting procedures and requirements for water quality, well logs, location of wells, and information relating to local

conditions; well filters; access ports; gravel packing; sampling methods; plumbness and alignment of the hole and casing; well abandonment procedures; and other necessary and appropriate standards.

(4) The board shall adopt rules regarding installation of pumping equipment by January 1, 1989.

(5) The board shall adopt rules regarding the construction, use, and abandonment of monitoring wells by January 1, 1989.

~~(4)~~(6) The board may request the department to inspect water wells drilled or being drilled, and the department has access to these at reasonable times.

~~(5)~~(7) The board may establish a program for training apprentices and licensed or prospective water well contractors, water well drillers, monitoring well constructors, and pump installers ~~or prospective water--well drillers--and apprentices~~ to more effectively carry out this chapter.

~~(6)~~(8) The board shall set and enforce standards and rules governing the licensing, registration, and conduct of water well drillers, and water well contractors, monitoring well constructors, and pump installers.

~~(7)~~(9) The board shall set fees commensurate with costs. The board may establish fees, including but not limited to fees for application, examination, renewal,

reciprocity, late renewal, and continuing education. Board costs not related to specific programs may be equitably distributed as determined by the board. The board shall maintain records sufficient to support the fees charged for each program area.

~~(8)~~(10) The rules of the board shall be compiled in printed form for distribution to interested persons, for which the department may charge a fee. Sums realized from these sales shall be deposited in the state special revenue fund for the use of the board.

~~(9)~~(11) The board shall:

(a) authorize the department to issue licenses to qualified water well contractors, and water well drillers, monitoring well constructors, and pump installers in this state;

(b) cause examinations to be made of applicants for licenses;

(c) deny, revoke, or suspend licenses for good cause, after notice and opportunity to be heard;

(d) reinstate licenses previously revoked when justification is shown to the satisfaction of the board; and

(e) generally perform duties which will carry out this chapter.

~~(10)~~(12) The board shall pay to the department its share of the assessed costs of the department in

administering this chapter."

Section 5. Section 37-43-203, MCA, is amended to read:

"37-43-203. Disciplinary authority -- injunctions. (1)

The board may adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by the board must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) A The board may maintain an action to enjoin a person from engaging in the drilling, making, or construction of water wells or monitoring wells or installing pumping equipment until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court."

Section 6. Section 37-43-301, MCA, is amended to read:

1 "37-43-301. Licensed contractor person to supervise
2 all construction. (1) Any firm, corporation, or partnership
3 may engage in the business of constructing water wells
4 provided a licensed water well contractor is placed in
5 charge of all water well construction.

6 (2) Any firm, corporation, or partnership may engage
7 in the business of installing pumping equipment provided a
8 licensed pump installer is in charge of installing the
9 pumping equipment.

10 (3) The licensed water well contractor must be the
11 individual who contracts on behalf of the firm, corporation,
12 or partnership.

13 (4) A licensed water well driller, pursuant to
14 37-43-305, must be employed by a licensed water well
15 contractor."

16 Section 7. Section 37-43-302, MCA, is amended to read:

17 "37-43-302. License required. (1) The drilling,
18 making, or construction of water wells ~~into-the-groundwater~~
19 ~~resources--of--this--state~~ and monitoring wells and the
20 installation of pumping equipment is declared to be a
21 business and activity affecting the public interest,
22 requiring reasonable standards of competence. Except as
23 provided in subsection (2), it is unlawful for any water
24 well contractor, or water well driller, monitoring well
25 constructor, or pump installer, as defined in this chapter,

1 to construct, alter, or rehabilitate a water well or a
2 monitoring well or to install pumping equipment without
3 first having obtained a valid license therefor as provided
4 for in this chapter. An individual who is licensed as a
5 water well contractor is not required to have a separate
6 water well driller's license to perform the actual
7 construction work on the well.

8 (2) A license is not required for:

9 (a) a person who drills, alters, or rehabilitates a
10 water or monitoring well on land that is owned or leased by
11 him, and provided:

12 (i) the land is used by him for farming, ranching, or
13 agricultural purposes or as his residence; and

14 (ii) the person who obtains a permit from the board;
15 and

16 (iii) the construction of the well conforms to the
17 minimum construction standards for water or monitoring wells
18 and installation of pumping equipment set by board rule; or

19 (b) ~~a--person~~ an apprentice water well driller who
20 performs labor or services for a licensed water well
21 contractor or driller in connection with the drilling of a
22 water well at the direction and under the personal
23 supervision of a licensed water well contractor or driller;
24 or

25 (c) a well owner who installs his own pumping

1 equipment in a well used by him on land he owns or leases,
2 provided:

3 (i) the land is used by the well owner for farming,
4 ranching, or agricultural purposes or as the well owner's
5 residence;

6 (ii) the well owner obtains a permit from the board;
7 and

8 (iii) the pump installation conforms to the minimum
9 pumping equipment installation standards set by board rule.

10 (3) (a) To obtain a permit under subsection (2)(a) or
11 (2)(c), a person shall file with the department an
12 application containing the applicant's name, mailing
13 address, the location of the proposed well, the nature of
14 the applicant's ownership interest in the property on which
15 the well is to be drilled located, the construction or
16 installation method to be used, and the use for the proposed
17 well.

18 (b) The board shall promptly issue a permit if it
19 finds that:

20 (i) the applicant-intends-to-drill-the well is located
21 on land that he the applicant owns or leases and that he
22 uses for farming, ranching, or agricultural purposes or as
23 his residence; and

24 (ii) the construction or installation method to be used
25 meets the minimum standards for water wells or pumping

1 equipment set by board rule."

2 Section 8. Section 37-43-303, MCA, is amended to read:

3 "37-43-303. Application -- fee. (1) Except as provided
4 in 37-43-302(2), a person desiring to engage in the
5 drilling, making, or construction, alteration, or
6 rehabilitation of one or more water or monitoring wells for
7 underground water or the installation of pumping equipment
8 in water wells in this state shall first file an application
9 with the department for a ~~contractor's-or-driller's~~ license,
10 ~~setting--out--his~~. The application must set forth the
11 applicant's qualifications, the equipment proposed to be
12 used in the contracting, and other matters required by the
13 board on forms adopted by the board.

14 (2) The department shall charge a fee prescribed by
15 the board for filing the an application ~~of--a--person~~. The
16 application shall not be acted on until the fee has been
17 paid. Fees collected under this section shall be deposited
18 in the state special revenue fund for the use of the board.

19 (3) ~~A An appropriate~~ license ~~to-construct-water--wells~~
20 shall be issued to an applicant if, in the opinion of the
21 board, the applicant is qualified to conduct water well or
22 monitoring well construction operations or pumping equipment
23 installation. In the granting of licenses, the board shall
24 have due regard for the interest of this state in the
25 protection of its underground waters."

1 Section 9. Section 37-43-305, MCA, is amended to read:

2 "37-43-305. Examination and qualifications. (1) Under
3 board rules pertaining to the business of drilling and
4 contracting for drilling of water wells which-the-board
5 adopts and monitoring wells and the business of pump
6 installation, the department shall inquire by examination or
7 otherwise into the qualifications of applicants for licenses
8 ~~to--drill--or--make--wells-for-the-production-of-underground~~
9 ~~waters-in-this-state~~. Examinations may be oral, written, or
10 both.

11 (2) The qualifications ~~required-by--the--board~~ for a
12 water well contractor's license are:

13 (a) familiar knowledge of groundwater laws of this
14 state and sanitary standards for water well drilling and
15 construction of water wells;

16 (b) knowledge of types of water well construction;

17 (c) knowledge of types of drilling tools and their
18 uses;

19 (d) knowledge of underground geology in its relation
20 to well construction;

21 (e) possession of adequate equipment by the applicant
22 to complete satisfactory water wells under the standards of
23 the board;

24 (f) financial responsibility of the applicant;

25 (g) successful completion of an examination given by

1 the department; and

2 (h) ~~the-applicant-must-have-completed-a-minimum--of--1~~
3 year completion of an apprenticeship of 1 year or more under
4 the direct supervision of a licensed water well contractor.

5 (3) The qualifications for a water well driller's
6 license are:

7 (a) familiar knowledge of groundwater laws of this
8 state and sanitary standards for water well drilling and
9 water well construction;

10 (b) knowledge of types of water well construction;

11 (c) knowledge of types of drilling tools and their
12 uses;

13 (d) knowledge of geology in its relation to well
14 construction;

15 (e) employment by a licensed water well contractor;

16 (f) completion of an apprenticeship of 1 year or more
17 under the direct supervision of a licensed water well
18 contractor or driller; and

19 (g) successful completion of an examination given by
20 the department.

21 (4) The qualifications for a pump installer's license
22 are:

23 (a) familiar knowledge of groundwater laws of this
24 state and sanitary standards for pump installation;

25 (b) knowledge of construction, installation, and

1 repair of water well pumps, water pressure storage tanks,
2 connecting piping, and related appurtenances;

3 (c) possession of adequate equipment by the applicant
4 to properly install pumping equipment;

5 (d) financial responsibility of the applicant;

6 (e) 1 or more years of experience under the direct
7 supervision of a licensed pump installer or licensed water
8 well contractor; and

9 (f) successful completion of an examination given by
10 the department.

11 (5) The qualifications for a license to construct
12 monitoring wells are:

13 (a) familiar knowledge of groundwater laws of this
14 state and sanitary standards for drilling and construction
15 of monitoring wells;

16 (b) knowledge of types of monitoring well
17 construction;

18 (c) knowledge of types of drilling tools used for
19 monitoring wells and their uses;

20 (d) knowledge of geology;

21 (e) financial responsibility of the applicant;

22 (f) 1 or more years of experience in drilling
23 monitoring wells under the direct supervision of a licensed
24 monitoring well constructor; and

25 (g) successful completion of an examination related

1 specifically to drilling of monitoring wells given by the
2 department.

3 ~~(2)~~(6) The department shall give examinations at times
4 and places the board determines. Failure of an applicant to
5 successfully complete the examination disqualifies him from
6 making further application for a period of 3 months. The
7 board shall act within a reasonable time on applications for
8 licenses. An application shall be accompanied by the initial
9 fee, and failure to successfully meet the requirements of
10 the board does not entitle the applicant to a refund of the
11 fee."

12 Section 10. Section 37-43-306, MCA, is amended to
13 read:

14 "37-43-306. Bond to be required. (1) The department,
15 on issuance of a ~~contractor's~~ water well contractor's,
16 monitoring well constructor's, or pump installer's license
17 under this chapter, shall require, before the person
18 commences operations in this state, a good and sufficient
19 surety bond or ~~in-lieu--thereof~~ its equivalent in a
20 certificate of deposit, cashier's check, bank draft, or
21 certified check, to be approved by the board, in the ~~penal~~
22 sum of \$4,000, conditioned that the licensee will comply
23 with the rules of the board.

24 (2) A person who is licensed in more than one category
25 need supply only one surety bond or its equivalent in a

1 certificate of deposit, cashier's check, bank draft, or
2 certified check, to be approved by the board, for \$4,000."

3 Section 11. Section 37-43-307, MCA, is amended to
4 read:

5 "37-43-307. Annual renewal -- fee -- revocation for
6 nonrenewal. (1) The term for licenses issued under this
7 chapter is from July 1 of each year through the following
8 June 30. After the payment of the initial fee under
9 37-43-303, a licensee shall pay, before the first day of
10 each license year, a renewal fee as prescribed by the board.

11 (2) If a licensee does not apply for renewal of his
12 license before the first day of a license year and remit to
13 the department the renewal fee, he shall have his license
14 suspended by the board. If the license remains suspended for
15 a period of more than 30 days after the first day of a
16 license year, it shall be revoked by the board. However, the
17 department, prior to this revocation, shall notify the
18 licensee of the board's intention to revoke at least 10 days
19 prior to the time set for action to be taken by the board on
20 the license, by mailing notice to the licensee at the
21 address appearing for the licensee in the records and files
22 of the department. A license once revoked may not be
23 reinstated unless it appears that an injustice has occurred
24 indicating to the board that the licensee was not guilty of
25 negligence or laches. If a person whose license has been

1 revoked through his own fault desires to engage in the
2 business of water well drilling, monitoring well
3 construction, or pump installation in this state or
4 contracting therefor, he must apply under 37-43-303 and
5 ~~37-43-304~~. Notice of suspension shall be given a licensee
6 when the suspension occurs."

7 Section 12. Section 37-43-308, MCA, is amended to
8 read:

9 "37-43-308. Reciprocity. If a person holding a license
10 entitling him to drill water wells or install pumping
11 equipment in another state applies for a Montana water well
12 contractor's, water well driller's, or pump installer's
13 license, the board may waive the apprenticeship requirements
14 and examination requirements if it finds that the standards
15 and requirements of the state in which the applicant is
16 licensed are equal to or exceed those of Montana. However,
17 the board may require the applicant to successfully complete
18 an examination based on Montana statutes and rules relating
19 to the drilling of water wells and installation of pumping
20 equipment in this state."

21 Section 13. Section 37-43-312, MCA, is amended to
22 read:

23 "37-43-312. Penalty. Any person who shall willfully
24 violate any lawful rule or order of the board or who shall
25 engage in the business of drilling, or-making altering, or

1 rehabilitating water wells or monitoring wells or installing
 2 pumping equipment without first having obtained a license as
 3 in this chapter required or who shall violate any provision
 4 of this chapter shall be guilty of a misdemeanor and upon
 5 conviction shall be subject to a fine of not more than \$500
 6 or imprisonment in a county jail for a term not exceeding 6
 7 months, or both. Any violation of this chapter shall be
 8 prosecuted by the county attorney in the county in which the
 9 violation occurred or is occurring, and the trial thereof
 10 shall be held in that county."

11 Section 14. Section 37-43-401, MCA, is amended to
 12 read:

13 "37-43-401. No action or counterclaim to be maintained
 14 except by licensee. No action or counterclaim shall be
 15 maintained by any water well contractor, water well driller,
 16 monitoring well constructor, or pump installer in any court
 17 in this state with respect to any agreement, work, labor, or
 18 materials for which a license is required by this chapter or
 19 to recover the agreed price or any compensation under any
 20 such agreement or for any such work, labor, or materials for
 21 which a license is required by this chapter without alleging
 22 and proving that such water well contractor, water well
 23 driller, monitoring well constructor, or pump installer had
 24 a valid license at the time of making such agreement and of
 25 supplying such labor, work, or materials."

1 Section 15. Section 37-43-402, MCA, is amended to
 2 read:

3 "37-43-402. Completion of contracts by successor in
 4 interest of licensed-contractor licensee. Upon the transfer
 5 by operation of law to the successor in interest of a
 6 licensed water well contractor's, monitoring well
 7 constructor's, or pump installer's rights under a contract
 8 or agreement for the drilling, or making, or construction of
 9 a water well or wells, monitoring well or the installation
 10 of pumping equipment, the successor in interest to such
 11 rights shall be permitted to engage in the business of
 12 drilling, making, or construction of water wells or
 13 monitoring wells or the installation of pumping equipment to
 14 the extent necessary to perform the obligations of said
 15 licensed-water-well-contractor licensee under such contract
 16 or agreement, provided that such engagement in business
 17 shall be under the supervision of a licensed water well
 18 contractor, pump installer, or monitoring well constructor."

19 NEW SECTION. Section 16. Initial licensure as a pump
 20 installer. (1) An applicant who submits an application for a
 21 pump installer's license before June 1, 1988, shall receive
 22 a license if the applicant:

23 (a) successfully completes an examination for a pump
 24 installer's license administered by the board;

25 (b) submits evidence satisfactory to the board

1 demonstrating that he was actively engaged in the business
2 of installing pumping equipment or employed as a pump
3 installer for the 2 years immediately preceding July 1,
4 1987;

5 (c) pays a fee established by the board pursuant to
6 37-43-303; and

7 (d) provides a bond in compliance with 37-43-306.

8 (2) An applicant who submits an application for a pump
9 installer's license after May 31, 1988, shall meet the
10 requirements of 37-43-303, 37-43-305, and 37-43-306.

11 NEW SECTION. Section 17. Initial licensure as a
12 monitoring well constructor. (1) An applicant who submits an
13 application for a monitoring well constructor's license
14 before June 1, 1988, shall receive a license if the
15 applicant:

16 (a) is a licensed water well contractor or is engaged
17 in installing monitoring wells;

18 (b) provides verification of 1 or more years'
19 experience in drilling monitoring wells within the 4 years
20 preceding the application;

21 (c) pays a fee established by the board under
22 37-43-303;

23 (d) successfully completes the examination for
24 monitoring well installation; and

25 (e) provides a bond in compliance with 37-43-306.

1 (2) An applicant who applies for a monitoring well
2 constructor's license after May 31, 1988, shall meet the
3 requirements of 37-43-303, 37-43-305, and 37-43-306.

4 NEW SECTION. Section 18. Licensed monitoring well
5 constructor to supervise all construction of monitoring
6 wells. (1) Any firm, corporation, or partnership may engage
7 in the business of constructing or installing monitoring
8 wells provided a licensed monitoring well constructor is in
9 charge of all monitoring well installation.

10 (2) The licensed monitoring well constructor must be
11 physically present at the site throughout the construction
12 of the monitoring well.

13 NEW SECTION. Section 19. Repealer. Section 37-43-304,
14 MCA, is repealed.

15 NEW SECTION. Section 20. Extension of authority. Any
16 existing authority of the board of water well contractors to
17 make rules on the subject of the provisions of this act is
18 extended to the provisions of this act.

19 NEW SECTION. Section 21. Codification instruction.
20 Sections 16 through 18 are intended to be codified as an
21 integral part of Title 37, chapter 43, part 4, and the
22 provisions of Title 37, chapter 43, part 4, apply to
23 sections 16 through 18.

24 NEW SECTION. Section 22. Effective date. This act is
25 effective July 1, 1987.

-End-

-22-

DESCRIPTION OF PROPOSED LEGISLATION:

This bill amends laws relating to the Board of Water Well Contractors; increases board member compensation to \$50 a day; allows for licensing of, and requires bonds for, monitoring well constructors and water well pump installers.

ASSUMPTIONS:

This proposed law does not set fees. The bill would give the Board of Water Well Contractors the authority to set fees for filing applications, taking exams, and obtaining license renewals for pump installers and monitoring well constructors. It is assumed that the Board will set these fees so that, when they are combined with other earmarked revenue, the total will adequately cover the estimated costs of \$48,000 in FY88 and \$43,400 in FY89 to operate the program.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	\$ 30,000	\$ 30,000	\$ 0	\$ 30,000	\$ 30,000	\$ 0
Operating Expenses	10,000	18,200	8,200	10,000	12,950	2,950
TOTAL	\$ 40,000	\$ 48,200	\$ 8,200	\$ 40,000	\$ 42,950	\$ 2,950
<u>Revenues:</u>						
Water Well Special						
Revenue Account	\$ 30,000	\$ 48,200	\$ 18,200	\$ 30,000	\$ 42,950	\$ 12,950
General Fund	10,000	0	(10,000)	10,000	0	(10,000)
TOTAL	\$ 40,000	\$ 48,200	\$ 8,200	\$ 40,000	\$ 42,950	\$ 2,950

David L. Hunter DATE 2/23/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Gay Holliday DATE _____
 GAY HOLLIDAY, PRIMARY SPONSOR

Fiscal Note for HB831, as introduced.

HB 831

STATUS SHEET

50th LEGISLATIVE SESSION

NATURAL RESOURCES COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
718	2/16/87	2/16/87	2/18/87	2/18/87							
729	2/16/87	2/16/87	2/18/87			2/18/87					
746	2/18/87	2/18/87	2/20/87			2/20/87					
750	2/18/87	2/18/87	2/18/87			2/18/87					
760	2/18/87	2/18/87	2/18/87	2/18/87							
770	2/18/87	2/18/87	2/20/87	tabled							
775	2/18/87	2/18/87	2/18/87	tabled							
777	2/18/87	2/18/87	2/18/87	2/18/87							
781	3/6/87	3/6/87	3/9/87	tabled							
795	3/4/87	3/4/87	3/11/87			3/11/87					
812	2/20/87	2/20/87	2/20/87	tabled							
830	2/20/87	2/20/87	2/20/87	tabled							
831	2/20/87	2/20/87	2/20/87		2/20/87						
845	Failed to meet transmittal.										

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on February 20, 1987, at 1:00 p. m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Rep. Cobb who was excused.

HOUSE BILL NO. 831: Rep. Gay Holliday, District #3, stated this is an act amending laws relating to the Board of Water Well Contractors, increasing the compensation for Board members to \$50 a day, allowing for licensing of monitoring well constructors and water well pump installers requiring bonds for monitoring well constructors and water well pump installers. She stated she is carrying this bill because in her area, this seems to be a concern, and that is why the problem is being addressed in this form of a bill.

PROPOSERS: RICK BRASCH representing the Department of Natural Resources submitted a handout (Exhibit 1). He stated as many of the committee members remember, in 1985, the Legislature transferred the Board of Water Well Contractors to the DNRC for administrative purposes. One of the provisions of that statute was that the Board had to adopt the minimum, the mandatory minimum water well construction standards by January 1, 1986. The Board did do that, and in fact, those rules went into effect on October 1, 1986. Because of that thrust of those new rules and the regulation of the drillers in trying to protect the groundwater resource, the Board believes strongly that we have to go a little bit further, and find a little bit of what is necessary to protect the resource from other aspects. Generally, he stated, this is what this bill is trying to do, is to expand upon that.

OPPOSERS: DOUG DAVIS, President of the Water Well Drillers submitted testimony (Exhibit 2). He stated the members of the M.W.W.D.A. would like to express some concerns and desires on the proposed changes and addition of laws relating to the Board of Water Well Contractors. First and foremost, they would like to see the license bond held down to one \$4,000 bond. The general consensus regarding licensing pump installers and monitor hold constructors positive, but hopefully the present water well contractor could obtain these additional licenses for a reasonable cost so as not to lose some very capable and qualified people.

FRED BOYCE, a concerned individual, stated he is neither a proponent or a opponent, however, he would like to see some amendments proposed to the bill, regarding language covering pump installation. He stated these are merely examples of what they have found in working on wells that cause contamination. He wondered if you could try to get a license as the bill would be in law, without a grandfather clause. He stated this is the only concern he has, and it looks to him like this could cause a problem if trying to put it in without a grandfather clause, for pump installers.

NO FURTHER OPPONENTS

REP. SIMON asked Mr. Davis that he indicated the Water Well Contractors Association are opposed to the bill, however, he felt Mr. Davis really never indicated why, and wondered if it was the grandfather clause they were opposed to.

MR. DAVIS stated they are already a licensed water well contractor, and a lot of the drillers in the State have been installing pumps for 15-20 years, and they don't feel they should have to have a separate license to do this, and they feel this should not be grandfathered for a pump installer.

REP. HARPER asked Mr. Brasch that he is concerned with where the responsibility of the person licensed under this statute ends, and where the responsibility of a plumber begins.

MR. BRASCH stated he doesn't feel the bill itself clarifies this and he thinks what the Board may have to do when they go through the rules, is they will have to clarify this issue, but he feels it strictly is installing the pumps in the wells, and is not the plumbing that goes from the well, pumped to the house, because it does not involve this same kind of thing.

REP. HARPER then wondered if, in fact, a plumber could install these pumps. Mr. Brasch stated yes, they can.

REP. ADDY asked Mr. Brasch why they don't want to grandfather these people, stating this seems to be the only point of contention here, and he wanted to know their rationale for this.

MR. BRASCH stated he felt this was mentioned before, and he stated they don't feel it is really a grandfather statute. If you have verification, some procedure that could be implemented for proof, by affidavit or something, then you would have some idea that they have actually done the work.

REP. SIMON asked Mr. Brasch if this bill is passed, how would they prevent abuse to some of these wells, as he had heard some horrible stories on incidents that have taken place regarding abuse to these wells.

MR. BRASCH stated that there are several issues there, but first of all the bill requires homeowners can go in, install pumps and drill wells on their own property, but they must follow the construction standards. So here, we would be talking about enforcement. The drillers and contractors were perhaps licensed for someone, but the question is, how do you know they are doing what they are suppose to be. The way they are doing it at present, is that they are spot checking various drillers throughout the state. Presently, they are accumulating all the well log reports that the drillers are required to provide to the State and to the homeowners, and they then review each one of those to see if they are generally complying with the minimum construction rules.

In closing, Rep. Holliday stated she helped write this piece of legislation two years, and she stated she really wouldn't be in favor of any amendments to the bill. She thanked the committee for their time and consideration of HB 831.

HEARING CLOSED ON HB 831.

HOUSE BILL NO. 831: REP. PAUL RAPP-SVRCEK, District #51, stated in background, he told of a trip that he went on with Rep. Smith, a trip down the Swan to look at a timber sale at Plum Creek. Here, Rep. Smith showed him huge decks of timber that were stacked very neatly and when he questioned what they were, Rep. Smith said they were the tops of the trees that get burned. He stated there was literally hundreds of cords of wood stacked, waiting to be burned. So what this bill does, is attempt to try and make use of all that timber that is presently being wasted. He then walked the committee through the bill, and stated while they are attempting to admit companies like Champion and the bigger companies, to make slash available, it also, as the bill is written, would have impact on a large number of smaller private landowners who cut amounts of timber from their own land. He stated he hoped the committee would agree that setting up a system such as this, would take the pressure off the public lands and would go a long way toward more efficient use of this resource. However, he stated it is late in the session, and it was his feeling to ask the committee to consider this bill in the manner in which they have treated the other bills he has brought before this committee, in the interest of saving the committee's time, and asked the committee to TABLE HB 812.

HEARING CLOSED ON HB 812.

REP. HARPER agreed with Rep. Peterson and made a substitute motion to TABLE HB 830. Question being called, the motion CARRIED, with Reps. Raney, Russell, Addy and Cohen voting NO.

HOUSE BILL NO. 831: REP. SMITH moved HB 831 DO PASS. REP. KADAS moved to amend HB 831 by deleting subsection (a), which would also include renumbering subsequent sections.

DISCUSSION

REP. HARPER stated by eliminating (a), this would then, in essence, say, no one can do this, unless they have two years of experience, and asked the committee to correct him if he was wrong. The committee agreed, and Rep. Kadas moved to correct his amendment by stating, the committee can either go with the amendment, or with the amendment and all the criteria. Rep. Peterson asked Rep. Kadas if it would work by inserting right after subsection (a), "or" and then subsection (b).

HUGH ZACKHEIM, then explained by stating on line 23 after sub (a), you could immediately insert (i) and on lines 24, following board, put the word "or" and on line 25, strike "be" and put "(ii)" and on the following page change all the subsections, so they would then fall into order as being renumbered.

REP. GRADY then made a substitute motion to TABLE HB 831. Question was then called, a roll call vote was taken, the motion FAILED on a 9-9 tie vote.

REP. KADAS then moved the amendment as stated by Hugh, stating he feels this does satisfy the grandfather concern over the application. It is still in the law that they have to meet certain criteria when they install these pumps and monitoring wells, and even those different people that have different criteria, will have to meet the same criteria.

Question was called on the amendment, the motion CARRIED unanimously. REP. ADDY moved HB 831 DO PASS AS AMENDED. Question being called, the motion FAILED on a 10-8 roll call vote.

REP. KADAS then made a substitute motion that HB 831 DO NOT PASS, and moved to reverse the vote. Question was then called on the motion, a voice vote was taken, the motion CARRIED unanimously. REP. KADAS moved the Statement of Intent for the bill and distributed a copy (Exhibit 6). He stated we should at least adopt the Statement of Intent, and since the committee has passed HB 831 out as an adverse committee report, the S of I will serve to hopefully work on the House Floor.

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DETAILED INFORMATION ON HOUSE BILL 831

REVISIONS IN BOARD OF WATER WELL CONTRACTORS LAW

February 20, 1987

Section 1 amends section 37-43-101 to require licensing by the Board of Water Well Contractors of those persons who install monitoring wells or install pumping equipment in wells. The Board feels poor pump installation and poor monitoring well installation practices create a potential threat to the groundwater resources and the public health, welfare, and safety if not carried out properly.

Current law appears to require a water well contractor's license for the installation of monitoring wells. The board recognizes there are qualified individuals, other than water well contractors, who install monitoring wells, but could not meet the requirements needed to secure a water well contractor's license. This amendment allows the Board to issue a separate license for individuals who install monitoring wells.

Improper installation of pumping equipment can result in problems ranging from contamination of the well to rendering the well unusable. For example, installation of a pump whose pumping capacity exceeds what the well can deliver can result in burned out pumps, silting in of the well, and other problems. Other examples of potential problems include cutting the access port for pump wires too large, thereby providing an avenue for contaminants to enter the well. In the opinion of the board,

the problems that can arise because of improper pump installation present a strong justification for assuring competency of pump installers through a licensing program.

Section 2 amends section 37-43-102, "Definitions". The definition of "apprentice water well driller" has been added for clarification. The definition allows a contractor to employ individuals as helpers, who are not involved in the actual drilling work and are not considered to be apprentices.

"Monitoring well" is defined to distinguish between a monitoring well and a water well. "Monitoring well constructor" is defined to distinguish between individuals who install monitoring wells and those who install water wells.

"Pump equipment" is defined, as is "pump installer". These definitions help clarify who needs a license to install pumping equipment.

The definition of "water well contractor" and "water well driller" contain minor changes to clarify that a contractor's or driller's license is not only required for constructing the well, but also for altering or rehabilitating a well.

Section 3 amends section 37-43-201 to require election of a chairman and vice-chairman each year. This is to insure an annual election of officers so that any Board chairman does not

continue to serve in that position for an indefinite period of time without an election. The section also changes the board member compensation from \$20 to \$50 per day. Several sessions ago, all other licensing Board members were given compensation of \$50 per day. The Board of Water Well Contractors was not included in the bill because they were undergoing sunset review; thus their compensation was never increased.

Section 4 amends section 37-43-202 to allow the Board to establish rules for installation of pumping equipment and provides a date of January 1, 1989 for the board to adopt the rules. It also provides that the board will adopt rules for the construction, use, and abandonment of monitoring wells by January 1, 1989. The section allowing the board to establish training programs has been amended to include apprentices, contractors, pump installers, and monitoring well constructors. Intent was implied in the current law. This amendment leaves no doubt that the training program can apply to all categories of licensees.

Other minor changes to include pump installers and monitoring well constructors under the licensing and enforcement provisions were made to assure consistency.

Section 5 amends section 37-43-203 to allow the Board to take disciplinary action against persons who install pumping equipment or install monitoring wells without a license.

Section 6 amends section 37-43-301 to require licensed persons to be in charge of the water well construction or installation of pumping equipment. It also requires that the licensed contractor be the individual who contracts for the firm. These provisions are to prevent unlicensed persons from operating well drilling or pump installation businesses without proper licensure and bonding.

Section 7 amends section 37-43-302 to require monitoring well constructors and pump installers to have a license. It also contains an amendment to allow water well contractors to drill wells without a driller's license, if they have a contractor's license. It is not necessary for one individual to carry both a driller's and contractor's license. An amendment is included to exempt individuals who drill their own well or install his own pumping equipment from licensing requirements of the Board. Those individuals must still obtain a permit from the board, as is now required. Both pump and well installation will be required to meet the minimum standards set by the Board. While it appears that only the landowner himself would be affected by improper construction of his own well, it is possible for him to create problems (i.e., contamination) for adjacent well owners obtaining water from the same aquifer.

Section 8: Section 37-43-303 "Application Fee," is amended to require compliance with licensing procedures for well construction, including alteration or rehabilitation of wells.

1
DATE 2:20-8

It also requires pump installers and monitoring well ~~9B 831~~
constructors to have a license. All these areas must be covered
by licensure to adequately protect the ground water resources
and the public.

Section 9 repeals section 37-43-304 which provided for a
temporary license until the applicant could take an exam.
Because exams are given every week day at different locations in
the state, no temporary permit has ever been issued and the
section should be repealed.

Section 10 amends 37-43-305, "Examinations and
Qualifications," to spell out the requirements for water well
contractors, water well drillers, pump installers, and
monitoring well constructors. These are very specific to each
category of licensure. Under the current law, the same
qualifications are required for contractors and drillers, even
though several are excessive for the driller licensee. Those
excessive criteria which apply to drillers are therefore
repealed.

Section 11 amends 37-43-306 to require bonding for
installers of monitoring wells and pumping equipment.
Monitoring well constructors and pump installers would be
required to provide a \$4,000 bond. If an individual is licensed
in more than one category, only one \$4,000 bond is required.

EXHIBIT 1
DATE 2-20-87
HB 831

Section 12: Section 37-43-307, "Annual Renewals," is amended to include pump installers and monitoring well constructors in the reinstatement procedures for licensure after failure to renew.

Section 13 amends 37-43-308, "Reciprocity," to add pump installers and water well drillers to the reciprocity provisions. The provision currently applies to water well contractors only. This section states the board may waive the apprenticeship and exam requirements for individuals licensed in states with at least equal requirements. Because the requirements for monitoring well constructors vary greatly from state to state, no reciprocity is being granted for this class of licensees.

Section 14 amends 37-43-312 to add altering or rehabilitating of wells, installation of monitoring wells and pumping equipment without licensure to the penalty provision of the law.

Section 15 amends 37-43-401 - no action or counterclaim to be maintained except by licensee - by adding water well drillers, pump installers, and monitoring well constructors to this section.

Section 16 amends 37-43-402 - "Completion of contractors by successor in interest of licensee" to add water well drillers, pump installers and monitoring well constructors to this section.

Section 17 is a new section which provides for initial licensure as a pump installer. Even though examination is required, this section provides a method for licensing of those individuals who are installing pumping equipment at this time. These individuals will not have to serve an apprenticeship.

Section 18 is a new section which provides a method of licensing persons who are currently installing monitoring wells. Because of the specialized skills required to properly construct monitoring wells, no license will be issued without the successful completion of an examination specific to monitoring well installation.

Section 19 is a new section which provides that a licensed monitoring well constructor must be physically present during the construction of the monitoring well to supervise the work.

Section 20 provides an extension of authority for rule making.

Section 21 contains codification instructions.

Section 22 provides an effective date of July 1, 1987.

EXHIBIT 2
DATE 2-20-87
HB 831

Feb. 6, 1987

To: Board of Water Well Contractors
Legislators of Montana

The members of the M.W.W.D.A. would like to express some concerns and desires on the proposed changes and addition of laws relating to the Board of Water Well Contractors.

First and foremost we would like to see the license bond held down to one \$4,000. bond. Discussions at our convention this week indicated that raising this bond would be detrimental to the small contractor and even many larger contractors in depressed market areas. Several members checked their average cost of a well for last few years, and found it to be considerably less than \$4,000.00. Documentation of this can be provided if necessary.

The general consensus regarding licensing pump installers and monitor hole constructors was positive, but hopefully the present Water Well Contractor could obtain these additional licenses for a reasonable cost so as not to lose some very capable and qualified people.

Our members have no problem with raising the compensation for board members as we greatly appreciate all their efforts through the taxing times of the previous year.

In closing we would like to say that no one has stronger concerns over the protection of the quality of ground water in the state of Montana than our members, as we work with it every day. We don't want to leave the impression that we are trying to feather our own "nests", but also very strongly want to convey that our members are the most qualified, conscientious, and capable group for constructing any type of wells, bore holes, or handling of pumping equipment.

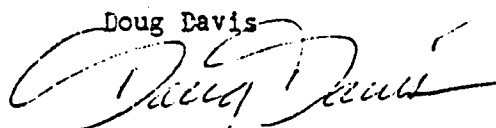
We appreciate your keeping our thoughts in mind when making decisions regarding the producers and protectors of our ground water supply.

New Board Members:

Kevin Haggerty
Doug Davis
Fred Boyce
Pat Byrne Jr.
Bob Chamberlin
Bill Lake
Curt Schelle

Respectively,

Doug Davis



President
Montana Water Well Drillers Association

MWWDA BUSINESS MEETING FEBRUARY 4, 1987

MORNING MEETING

2-20-87

B31

President Fred Boyce opened the meeting. Secretary Kevin Haggerty read the minutes from the 1986 business meeting and the current Financial Statement.

Ron Guse from the DNRC gave a report from the State Board of Water Well Contractors. (copy enclosed at the back of these minutes) There was a question and answer period following Ron's report. Terry Lindsay wanted clarification on there being 3 separate licenses. Fred Boyce said a person in charge of a monitoring operation would need the license. Fred also relayed that in North Dakota contractors with a well license did not need a separate license to install pumps, but there is a separate license to cover others.

Ron Hiddleston NWA representative, suggested the possible grandfathering of these licenses.

Bob Chamberlin brought up a point of whether a pump installer's license would be individual or a company license.

Ron Guse suggested fee's be adjusted for contractors with more than one license.

Discussion took place on raising the bond from \$4000 to \$8000. Fred brought up the point that average costs fell below this \$4000 level.

Diane Cuttler explained how the board could get payment from the bond to the customer. Ted Benes stated that a contractors product liability insurance covers the customer also.

Wes Lindsay gave a briefing on the bill so Water Well drillers could write specifications for Public wells. If the bill goes through drillers wishing to do this will have to become certified by the board.

Doug Davis moved the meeting be adjourned, Larry Bond seconded.

AFTERNOON MEETING

Fred opened the meeting and introduced Dan Ruff from the suppliers division. Dan gave a run down on the upcoming events of the convention. He listed the suppliers present and their board members.

The Keynote speaker was H.E. McBride who spoke on the economy and what can be done about it.

Ron Hiddleston from the NWA gave a talk on Hazardous Waste Drilling. He had lots of suggestions for drillers interested in doing this type of work.

MWWDA BUSINESS MEETING FEBRUARY 5, 1987

MORNING MEETING

Questions on proposed legislation were directed to Wes Lindsay. Ken Beven made a motion for a letter to be written to Helena requesting to keep the bond at \$4000. Gil Lautt seconded and the motion passed by a majority.

A vote was taken for those in favor of a Pump Installers license. 23 for 3 opposed. There was some more discussion on monitoring and insurance.

Meeting was adjourned

AFTERNOON MEETING

Fred opened the meeting by informing the membership of who the outgoing directors were. Fred Boyce, Larry Bond, Kevin Haggerty, Pat Byrne.

New directors elected are Pat Byrne, Fred Boyce, Kevin Haggerty, Curt Schelle.

The new President: Doug Davis VP: Kevin Haggerty Sec: Pat Byrne

Hold over directors: Bob Chamberlin, Doug Davis, Bill Lake

STATEMENT OF INTENT

H Bill No. 231

A statement of intent is required for this bill because it requires the board of water well contractors to adopt rules to implement the provisions of this act.

This bill authorizes the board to license and provide training for persons constructing monitoring wells and to adopt rules regarding the construction, use, and abandonment of monitoring wells. The board's present jurisdiction is over wells intended for the location, diversion, artificial recharge, or acquisition of ground water. This bill is intended to clarify that the board's jurisdiction extends to wells that monitor ground water movement and quality. Monitoring wells can affect the ground water resource no less than production wells, and the increased use of monitoring wells requires that the board certify monitoring well constructors and adopt rules for monitoring well construction.

This bill also authorizes the board to license and provide training for water well pump installers and to adopt rules regarding pump installation. In addition to protection for well owners, the board shall address impacts on the ground water resource resulting from improper pump installation. For example, contaminants can enter a well through access ports, adapter seals, pump discharge lines, and electrical connections.

In adopting rules to implement this act, the board shall conform to any national standards regarding pump installation and monitoring wells and shall review standards adopted by other states.

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 20, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	✓		
CLYDE SMITH, VICE CHAIRMAN	✓		
KELLY ADDY	✓		
TOM ASAY	✓		
JOHN COBB			✓
BEN COHEN	✓		
ED GRADY	✓		
JOHN HARP	✓		
HAL HARPER	✓		
MIKE KADAS	✓		
AL MEYERS	✓		
JOAN MILES	✓		
MARY LOU PETERSON	✓		
BOB RANEY	✓		
RANDE ROTH	✓		
ANGELA RUSSELL	✓		
BRUCE SIMON	✓		
BILL STRIZICH	✓		
STAFF: EQC HUGH ZACKHEIM			

ROLL CALL VOTE

NATURAL RESOURCES

COMMITTEE

DATE FEB 20 1987

BILL NO. HB 831

Time
NUMBER 1.45 p.m.

NAME	AYE	NAY
TOM JONES, CHAIRMAN	X	
CLYDE SMITH, VICE CHAIRMAN	X	
KELLY ADDY		X
TOM ASAY		X
JOHN COBB	X	
BEN COHEN		X
ED GRADY	X	
JOHN HARP	X	
HAL HARPER	X	
MIKE KADAS		X
AL MEYERS	X	
JOAN MILES		X
MARY LOU PETERSON	X	
BOB RANEY		X
RANDE ROTH		X
ANGELA RUSSELL		X
BRUCE SIMON	X	
BILL STRIZICH		X
STAFF: HUGH ZACKHEIM		

TALLY

9

9

Lisa Routh
Secretary

Chairman

MOTION: Rep Grady made a substitute motion
that HB 831 be tabled. A roll call vote
was taken, the motion failed on a 9-9
tie vote.

ROLL CALL VOTE

NATURAL RESOURCES

COMMITTEE

DATE Feb 20, 1987

BILL NO. HB 831

TIME
NUMBER 2:00 p.m.

NAME	AYE	NAY
TOM JONES, CHAIRMAN		X
CLYDE SMITH, VICE CHAIRMAN		X
KELLY ADDY	X	
TOM ASAY		X
JOHN COBB		X
BEN COHEN	X	
ED GRADY		X
JOHN HARP		X
HAL HARPER		X
MIKE KADAS	X	
AL MEYERS		X
JOAN MILES	X	
MARY LOU PETERSON		X
BOB RANEY	X	
RANDE ROTH	X	
ANGELA RUSSELL	X	
BRUCE SIMON		X
BILL STRIZICH	X	
STAFF: HUGH ZACKHEIM		

TALLY

8 10

Lisa Routh
Secretary

Chairman

MOTION: Rep. Arkly moved that HB 831 DO PASS AS
AMENDED Question being called a roll call
vote was taken. The motion failed 10-8. Rep.
Kadas then made a substitute motion that HB 831
DO NOT PASS and moved to reverse the vote
Question was called, the motion carried unanimously

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEEBILL NO. HB 831DATE FEB. 20, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Ron Cause	1331 Rosta Ave. Helena mt.	✓	
Wendy Lindsay	Clancy Mont		
F. My Lindsay	Clancy Mt.		
Danny Lewis	Bigs mt		x
Bill Lake	Lippy mont		x
Bob Byrne	Ch. Fall		✓
Bob Chamberlain	Betts		✓
Jeff Coyle	Helena Mont		
Roger Brown	Helena mt		✓
Rich Brown	Helena mt	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

February 20

19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 331

☐ do pass
☒ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. TOM JONES

Chairman

2725
FIRST

reading copy (**WHITE**)

color

CHAIRMAN--SEN. TOM KEATING
NORMAL SCHEDULE==> SITE: ROOM 405

DAYS: M-W-F

TIME: 1:00 P.M.

SECRETARY--NADINE MCCURDY

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0746	3/02	3/20		ADVERSE REPORT		
BRANDIEWIE, RAY		3/25	REQUIRING LOCAL LICENSES FOR ON-SITE SEWAGE TREATMENT SYSTEMS			3/25
HB0760	3/11	3/23		CONCUR		
REAM, BOB		3/25	AUTHORIZING ISSUANCE OF CERCLA BONDS FOR SUPERFUND REMEDIAL ACTION BY DHES			3/25
HB0777	3/11	3/23		CONCUR		
REAM, BOB		3/25	PROVIDING FUNDING FOR HAZARDOUS WASTE PROGRAMS AND CERCLA PARTICIPATION			3/25
HB0831	3/02	3/18		CONCUR AS AMENDED		
HOLLIDAY, GAY			REQUIRES LICENSING OF WELL PUMP INSTALLERS & MONITORING WELL CONSTRUCTORS			3/18
HJ0006	2/02	3/20		CONCUR		
SCHYE, TED		3/23	REQUESTS EPA TO REVISE UNDERGROUND SALT WATER INJECTION POLICY-JUDITH RIV FM			3/23
HJ0019	2/13	3/13		CONCUR		
MILES, JOAN			SUPPORTS GOVERNOR'S CUP SLED DOG RACE			3/13
HJ0024	2/17	3/20		CONCUR		
SWIFT, BERNIE		3/23	EXTENDS WESTERN STATES FORESTRY TASK FORCE			3/23
HJ0044	3/31	4/08		CONCUR		
PAVLOVICH, BOB			REQUESTING STUDY OF PROBLEMS OF HAZARDOUS MATERIALS INCIDENTS			4/8
HJ0049	4/09	4/15		CONCUR		
MILES, JOAN			INTERIM STUDY ON FOREST MANAGEMENT AND WATERSHED EFFECTS			4/15
HJR59	4/22	4/22	Calamity Jane Reservoir	Concur		4/22
Hannah, Tom						

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 18, 1987

Meeting of the Senate Natural Resources Committee was called to order by Chairman Thomas Keating on March 18, 1987, at 12:30 p.m., in Room 405 of the State Capitol.

ROLL CALL: All members were present.

DISPOSITION OF HOUSE BILL 534: Sen. Lynch moved that HB 534 BE CONCURRED IN.

Sen. Halligan made a substitute motion that HB 534 amendments BE ADOPTED, and he said HB 534 would set a ridiculous precedent for Legislature. All the testimony received against the bill would be set aside. Therefore Sen. Halligan submitted amendments that would meet all the industries half-way.
(Exhibit 1)

Sen. Lynch stated facetiously that Butte shouldn't have to live with the State standards either. He stated that he wished Butte had some of the industry that Billings has. He would like to see jobs in the State and he thought that HB 534 should be passed.

Sen. Walker supported Sen. Halligan's amendments because he said the federal standards are subject to review right now. Furthermore, he wanted to know what kind of statement would the legislature be making to those plants who had already spent money to comply with State standards; such as, the plants in Great Falls, and he was told that Great Falls does not have the SO₂ problem. SO₂ problem exists in Billings. Sen. Keating said that the companies had given their word as members of the community that they would continue to bring SO₂ emissions down in Billings. Monitors have been placed where readings are the worst.

Sen. Stimatz mentioned that State Board of Health has never tried to shut down the Billings' industries; and if the emissions were truly dangerous, he thought the Board would have shut them down in spite of the pending lawsuit.

Sen. Yellowtail said he felt that there's no incentive to negotiate for DHES without Sen. Halligan's amendments.

Sen. Halligan said that the DHES is better able to work on the problem and that corporations don't elect senators, but people do.

PROPOSERS: Jo Brunner, Montana Water Development Association said the HB 651 is a very important bill that should be passed. Farmers are scratching and searching for ways to keep their operations intact. HB 651 would help alleviate some problems, by allowing the farmers to keep their water rights.

Mr. George Ochenski had asked Ms. Brunner to go on record for EIC as supporting the bill.

Terry Murphy, Montana Farmers Union, said that HB 651 is a common sense bill for reserving water rights for legitimate purposes. Mr. Murphy asked the committee to pass HB 651.

Gary Fritz, DNRC, also stood in support of bill.

OPPOSERS: None.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: None.

CLOSING: Rep. Jenkins said he has nothing more to say.

Sen. Weeding moved that HB 651 BE CONCURRED IN. Motion CARRIED unanimously.

CONSIDERATION OF HOUSE BILL 831: Rep. Holliday, House District 31, introduced HB 831 as being drafted by request of DNRC. Rep. Holliday distributed detailed explanation of the bill and what it would do. (Exhibit 2) She said that all HB 831 does is to amend laws relating to Board of Water Well Contractors, requiring licensing by the Board of those persons who install monitoring wells, as well as increasing the compensation for board members. Rep. Holliday said there were some proposed technical amendments that were drawn up by Gail Kuntz, and Rep. Holliday asked that the amendments be adopted.

Ron Guse, Board of Water Well Contractors, distributed a written summary of his presentation. (Exhibit 3) Mr. Guse said that the board was established by legislature in 1961, and at that time it was attached to the Department of Health. The board consists of two drillers, plus one representative from the Department of Natural Resources, one representative from the Bureau of Mines and one from the Department of Health and Environmental Sciences. At present, the board is attached to DNRC for administrative purposes only and also to take advantage of some of the facilities. He then read his summary from his testimony.

Rick Brasch, DNRC, said that administrative assistance is provided to the board. Mr. Brasch stated that he had reviewed the bill and he urged the committee to concur.

OPPONENTS: John Fitzpatrick, Montana Tunnels, explained that he was a "soft" opponent. His concern was that the mining industry does a lot of monitoring well drilling and he questioned if there is really a need for the bill. Mr. Fitzpatrick stated that the intent is fine so as not to cause ground water pollution by incompetence. But he also stated that the regulation would have a negative impact economically. He said he would hate to see the bill protect the economic franchise of a small number of individuals.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Sen. Gage was told in answer to his question that monitoring wells in saline seep are also included.

Sen. Stimatz wanted to know what a "natural person" is in the bill, and he was told that terminology means an individual but not a corporation.

CLOSING: Rep. Holliday said she had closed.

Sen. Gage moved amendments as drafted by Ms. Kuntz (Exhibit 4). Motion CARRIED unanimously.

Sen. Lynych moved that HB 831 AS AMENDED BE CONCURRED IN. Motion CARRIED unanimously.

There being no more business before the committee, Sen. Keating adjourned the meeting at 2:10 p.m.


THOMAS F. KEATING, Chairman

INTENT AND PURPOSE OF HB 831 AMENDING THE
LAWS RELATING TO THE BOARD OF WATER WELL CONTRACTORS

Section 1 amends section 37-43-101 to require licensing by the Board of Water Well Contractors of those persons who install monitoring wells. The Board feels poor monitoring well installation practices create a potential threat to the groundwater resources and the public health, welfare, and safety if not carried out properly.

Current law appears to require a water well contractor's license for the installation of monitoring wells. The board recognizes there are qualified individuals, other than water well contractors, who install monitoring wells, but could not meet the requirements needed to secure a water well contractor's license. This amendment allows the Board to issue a separate license for individuals who install monitoring wells.

Section 2 amends section 37-43-102, "Definitions". The definition of "apprentice water well driller" has been added for clarification. The definition allows a contractor to employ individuals as helpers, who are not involved in the actual drilling work and are not considered to be apprentices.

"Monitoring well" is defined to distinguish between a monitoring well and a water well. "Monitoring well constructor" is defined to distinguish between individuals who install monitoring wells and those who install water wells.

The definition of "water well contractor" and "water well driller" contain minor changes to clarify that a contractor's or driller's license is not only required for constructing the well, but also for altering or rehabilitating a well.

Section 3 amends section 37-43-201 to require election of a chairman and vice-chairman each year. This is to insure an annual election of officers so that any Board chairman does not continue to serve in that position for an indefinite period of time without an election. The section also changes the board member compensation from \$20 to \$50 per day. Several sessions ago, all other licensing Board members were given compensation of \$50 per day. The Board of Water Well Contractors was not included in the bill because they were undergoing sunset review; thus their compensation was never increased.

Section 4 amends section 37-43-202 to allow the Board to establish rules for the construction, use, and abandonment of monitoring wells by January 1, 1989. The section allowing the board to establish training programs has been amended to include apprentices, contractors, and monitoring well constructors.

Intent was implied in the current law. This amendment leaves no doubt that the training program can apply to all categories of licensees.

SENATE NATURAL RESOURCE

EXHIBIT NO. 2-(p3)

DATE 3/13/87

BILL NO. HB 831

Other minor changes monitoring well constructors under the licensing and enforcement provisions were made to assure consistency.

Section 5 amends section 37-43-203 to allow the Board to take disciplinary action against persons who install monitoring wells without a license.

Section 6 amends section 37-43-301 to require licensed persons to be in charge of the water well construction. It also requires that the licensed contractor be the individual who contracts for the firm. These provisions are to prevent unlicensed persons from operating well drilling businesses without proper licensure and bonding.

Section 7 amends section 37-43-302 to require monitoring well constructors to have a license. It also contains an amendment to allow water well contractors to drill wells without a driller's license, if they have a contractor's license. It is not necessary for one individual to carry both a driller's and contractor's license. An amendment is included to continue to exempt individuals who drill their own well from licensing requirements of the Board. Those individuals must still obtain

a permit from the board, as is now required. However, the well installation will be required to meet the minimum construction standards set by the Board. While it appears that only the landowner himself would be affected by improper construction of his own well, it is possible for him to create problems (i.e., contamination) for adjacent well owners obtaining water from the same aquifer.

Section 8: Section 37-43-303 "Application Fee," is amended to require compliance with licensing procedures for well construction, including alteration or rehabilitation of wells. It also requires monitoring well constructors to have a license. All these areas must be covered by licensure to adequately protect the ground water resources and the public.

Section 9 amends 37-43-305, "Examinations and Qualifications," to spell out the requirements for water well contractors, water well drillers, and monitoring well constructors. These are very specific to each category of licensure. Under the current law, the same qualifications are required for contractors and drillers, even though several are excessive for the driller licensee. Those excessive criteria which apply to drillers are therefore repealed.

Section 10 amends 37-43-306 to require bonding installers of monitoring wells. Monitoring well constructors would be required to provide a \$4,000 bond. If an individual is licensed in more than one category, only one \$4,000 bond is required.

Section 11: Section 37-43-307, "Annual Renewals," is amended to include monitoring well constructors in the reinstatement procedures for licensure after failure to renew.

Section 12 amends 37-43-308, "Reciprocity," to add water well drillers to the reciprocity provisions. The provision currently applies to water well contractors only. This section states the board may waive the apprenticeship and exam requirements for individuals licensed in states with at least equal requirements. Because the requirements for monitoring well constructors vary greatly from state to state, no reciprocity is being granted for this class of licensees.

Section 13 amends 37-43-312 to add altering or rehabilitating of wells and installation of monitoring wells without licensure to the penalty provision of the law.

Section 14 amends 37-43-401 - No action or counterclaim to be maintained except by licensee. Under the current law, only licensed contractors can file an action in Montana courts with respect to any agreement, work, labor, or materials or to

recover the agreed price or any compensation under any such agreement or for any such work, labor, or materials. This section would be modified to allow drillers and water well contractors to do the same.

Section 15 amends 37-43-402 - "Completion of contractors by successor in interest of licensee". Current law allows the successor in interest to a licensed water well contractor right's under a contract to complete the work, provided a licensed contractor supervises the business until those contracts were completed. This section would be amended to include a monitoring well constructor.

Section 16 is a new section which provides a method of licensing persons who are currently installing monitoring wells. Because of the specialized skills required to properly construct monitoring wells, no license will be issued without the successful completion of an examination specific to monitoring well installation.

Section 17 is a new section which provides that a licensed monitoring well constructor must be physically present during the construction of the monitoring well to supervise the work.

Section 18 repeals section 37-43-304 which provided for a temporary license until the applicant could take an exam. Because exams are given every week day at different locations in the state, no temporary permit has ever been issued and the section should be repealed.

Section 19 provides an extension of authority for rule making.

Section 20 contains codification instructions.

Section 21 provides an effective date of July 1, 1987.

SENATE NATURAL RESOURCES
EXHIBIT NO. 3 (p. 7)
DATE 3/18/87
BILL NO. HB 831

HOUSE BILL 831-SUMMARYBOARD OF WATER WELL CONTRACTORS(3/13/87)

- A. This bill allows the Board of Water Well Contractors to issue a separate license to install monitoring wells, requires bonding, and provides training. Typically, monitoring wells are used only to sample ground water quality or help characterize the physical properties of an aquifer using pump tests or other analytical methods. The Board recognizes there are qualified entities other than water well contractors who are capable of properly installing monitoring wells, but who cannot meet the requirements needed to secure a water well contractor's license. This amendment allows the Board to issue separate licenses using separate criteria under those circumstances. The bill would also require the Board to adopt rules regarding the construction, use, and abandonment of monitoring wells by January 1, 1989.
- B. The remainder of the bill contains minor clarifications and changes to insure consistency in the existing law.

C. The following is a point-by-point summary of the content of the bill:

1. Adds a monitoring well constructors license.
2. Requires the Board to adopt rules for monitoring well installation by January 1, 1989.
3. Requires a single bond of \$4,000 for monitoring well constructors and water well contractors.
4. Provides for the initial licensure for persons currently installing monitoring wells.
5. Provides that homeowners can continue to drill their own wells, but that the construction must meet minimum standards as required by Board rules.
8. Changes Board member compensation from \$20/day to \$50/day.
9. Provides general housekeeping.

OK

PROPOSED AMENDMENTS TO HB 831

1. Page 18, line 25.
Following: "~~, or making~~"
Insert: "making,"

2. Page 22, line 22.
Following: "part"
Strike: "4"
Insert: "3"

3. Page 22, line 23.
Following: "part"
Strike: "4"
Insert: "3"

SENATE NATURAL RESOURCES

EXHIBIT NO. 4

DATE 3/18/87

BILL NO. HB 831

ROLL CALL

NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 18, 1987

NAME	PRESENT	ABSENT	EXCUSED
<u>Sen. Tom Keating, Chairman</u>	✓		
<u>Sen. Cecil Weeding, Vice Chairman</u>	✓		
<u>Sen. John Anderson</u>	✓		
<u>Sen. Mike Halligan</u>	✓		
<u>Sen. Delwyn Gage</u>	✓		
<u>Sen. Lawrence Stimatz</u>	✓		
<u>Sen. Larry Tveit</u>	✓		
<u>Sen. "J.D." Lynch</u>	✓		
<u>Sen. Sam Hofman</u>	✓		
<u>Sen. William Yellowtail</u>	✓		
<u>Sen. Elmer Severson</u>	✓		
<u>Sen. Mike Walker</u>	✓		

Each day attach to minutes.

DATE: 2 March 18, 1987

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
GEORGE PCHENSKI	MT. ENV. INF. CNTR	467	X	
Wally J. [unclear]	Bd. Lakeview Contractors	651	X	
[unclear]	M. U. D. A.	651	X	
[unclear]	DHEC	467		
[unclear]	MT. Chapter of [unclear]	467	X	
[unclear]	Bd. of Lakeview Contractors	831	X	
[unclear]	MT Farmers Union	651	X	
[unclear]	MT Assn. Conservation	467	X	
[unclear]	MT. Stockgrowers	467	X	
[unclear]	MT. Battle Horns	467	X	
[unclear]	Northern Plains Res. Cncl.	467	X	
[unclear]	MT League of Women Voters	467	X	
[unclear]	MT. Sevier County	467	X	
[unclear]	MT. [unclear]	651	X	

STANDING COMMITTEE REPORT

March 18

87

19.....

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 831

THIRD reading copy (BLUE)
color

**REQUIRES LICENSING OF WELL PUMP INSTALLERS & MONITORING WELL
CONSTRUCTORS**

HOLLIDAY (GALT)

Respectfully report as follows: That HOUSE BILL No. 831

BE AMENDED AS FOLLOWS:

1. Page 18, line 25.
Following: "7-or-making"
Insert: "making,"

2. Page 22, line 22.
Following: "part"
Strike: "4"
Insert: "3"

3. Page 22, line 23.
Following: "part"
Strike: "4"
Insert: "3"

AND AS AMENDED
BE CONCURRED IN

~~XXXXX~~
DO PASS

~~XXXXXX~~
DO NOT PASS

SENATOR THOMAS F. KEATING, Chairman.

HOUSE BILL NO. 831

INTRODUCED BY HOLLIDAY, ECK, GALT, IVERSON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES

AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING LAWS RELATING TO THE BOARD OF WATER WELL CONTRACTORS; INCREASING THE COMPENSATION FOR BOARD MEMBERS TO \$50 A DAY; ALLOWING FOR LICENSING OF MONITORING WELL CONSTRUCTORS ~~AND WATER WELL PUMP--INSTALLERS~~; REQUIRING BONDS FOR MONITORING WELL CONSTRUCTORS ~~AND--WATER--WELL--PUMP--INSTALLERS~~; AMENDING SECTIONS 37-43-101, 37-43-102, 37-43-201 THROUGH 37-43-203, 37-43-301 THROUGH 37-43-303, 37-43-305 THROUGH 37-43-308, 37-43-312, 37-43-401, AND 37-43-402, MCA; REPEALING SECTION 37-43-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-43-101, MCA, is amended to read:

"37-43-101. Purpose. It is the purpose of this chapter to reduce and minimize the waste and contamination of groundwater resources within this state by reasonable regulation and licensing of drillers or makers of water wells ~~in this state and monitoring wells and--installers--of pumping--equipment~~ and to protect the health and general welfare by providing a means for the development of the

natural resource of underground water in an orderly, sanitary, and reasonable manner. The reasonable regulation and licensing of drillers or makers of water wells and monitoring wells and installers of pumping equipment is in the best interest of the public, and the waste and contamination of groundwater resources through inefficient or incompetent operations of drillers or makers of water wells and monitoring wells and--installers--of--pumping equipment is prohibited. For the protection of the public and for the conservation of underground water resources, it is necessary that standards be set and maintained to insure that competency in the drilling and making of water wells and monitoring wells and installation of pumping equipment in this state is obtained."

Section 2. Section 37-43-102, MCA, is amended to read:

"37-43-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Apprentice water well driller" means an individual who is learning the trade of water well drilling and performs labor and services for a licensed water well contractor and whose duties are directly related to well drilling or drilling rig operation.

(2) "Board" means the board of water well contractors provided for in 2-15-3307.

(3) "Department" means the department of natural

1 resources and conservation provided for in Title 2, chapter
2 15, part 33.

3 (4) "Monitoring well" means a well that is used for
4 monitoring groundwater quality or flow direction but is not
5 used for withdrawing groundwater for purposes other than
6 water quality sampling or pump testing.

7 (5) "Monitoring well constructor" means a natural
8 person who drills or supervises the drilling of monitoring
9 wells.

10 (6) "Pumping equipment" means a pump or other device
11 used or intended for use in withdrawing or obtaining
12 groundwater from a well, including but not limited to well
13 seals and other safeguards to protect groundwater from
14 contamination.

15 (7) "Pump installer" means a person who installs or
16 repairs pumping equipment for compensation.

17 (3)(8)(6) "Water well" means an excavation that is
18 drilled, cored, bored, washed, driven, dug, jetted, or
19 otherwise constructed and intended for the location,
20 diversion, artificial recharge, or acquisition of
21 groundwater. The term does not include spring development or
22 excavations, by backhoe or otherwise, for recovery and use
23 of surface waters or for the purpose of stock watering or
24 irrigation where the depth is 25 feet or less. The term does
25 not include an excavation made for the purpose of obtaining

1 or prospecting for oil, natural gas, minerals, or products
2 of mining or quarrying or for inserting media to repressure
3 oil- or natural-gas-bearing formations or for storing
4 petroleum, natural gas, or other products.

5 (4)(9)(7) "Water well contractor" or "contractor"
6 means a natural person who contracts on behalf of a firm,
7 corporation, partnership, or other business entity to
8 construct, alter, or rehabilitate a water well on lands
9 other than his own for compensation.

10 (5)(10)(8) "Water well driller" or "driller" means any
11 person, other than an apprentice, at a drilling site causing
12 a water well to be drilled, altered, or rehabilitated."

13 Section 3. Section 37-43-201, MCA, is amended to read:

14 "37-43-201. Seal Organization -- seal -- compensation
15 of members. (1) The board shall annually elect a chairman
16 and vice-chairman.

17 (1)(2) The board shall have a seal with the words
18 engraved thereon, "Board of Water Well Contractors", and
19 such seal shall be affixed to all writs, authentication of
20 records, and other official proceedings of the board. The
21 courts of this state shall take judicial notice of such
22 seal.

23 (2)(3) Each appointed member of the board who is not a
24 government employee shall receive as compensation for his
25 services the sum of \$20 \$50 per day for each day actually

engaged in the performance of the duties of his office, including time of travel between his home and the places at which he shall perform such duties, together with mileage and per diem expenses as provided for in 2-18-501 through 2-18-503. ~~The state-engineer, the director of--environmental sanitation--of--the state-board-of-health, and other members~~ who are employees of the state of Montana shall receive no extra compensation for their services as members of the board."

Section 4. Section 37-43-202, MCA, is amended to read:

"37-43-202. Powers and duties. (1) The board may exercise the authority granted to it by this chapter.

(2) The board shall adopt rules and orders to effectuate this chapter.

(3) The board shall adopt rules to establish mandatory water well construction standards and enforcement procedures ~~by--January--17--1987~~. The standards must address the protection of the drilling site; specifications for casing materials; materials and specifications for well screens; casing perforations; well development procedures; proper sealing and grouting; temporary capping; cleaning and disinfecting; bonds; guaranties; contractors' and drillers' qualifications; tests for yield and drawdown; reporting procedures and requirements for water quality, well logs, location of wells, and information relating to local

conditions; well filters; access ports; gravel packing; sampling methods; plumbness and alignment of the hole and casing; well abandonment procedures; and other necessary and appropriate standards.

~~(4)--The board shall adopt rules regarding installation of pumping equipment by January 17, 1989.~~

(5)(4) The board shall adopt rules regarding the construction, use, and abandonment of monitoring wells by January 1, 1989.

~~(4)(6)(5)~~ The board may request the department to inspect water wells drilled or being drilled, and the department has access to these at reasonable times.

~~(5)(7)(6)~~ The board may establish a program for training apprentices and licensed or prospective water well contractors, water well drillers, AND monitoring well constructors, and pump installers or ~~prospective water--well drillers--and apprentices~~ to more effectively carry out this chapter.

~~(6)(8)(7)~~ The board shall set and enforce standards and rules governing the licensing, registration, and conduct of water well drillers, and water well contractors, AND monitoring well constructors, and pump installers.

~~(7)(9)(8)~~ The board shall set fees commensurate with costs. The board may establish fees, including but not limited to fees for application, examination, renewal,

reciprocity, late renewal, and continuing education. Board costs not related to specific programs may be equitably distributed as determined by the board. The board shall maintain records sufficient to support the fees charged for each program area.

~~(8)~~~~(10)~~(9) The rules of the board shall be compiled in printed form for distribution to interested persons, for which the department may charge a fee. Sums realized from these sales shall be deposited in the state special revenue fund for the use of the board.

~~(9)~~~~(11)~~(10) The board shall:

(a) authorize the department to issue licenses to qualified water well contractors, and water well drillers, AND monitoring well constructors,~~and pump installers~~ in this state;

(b) cause examinations to be made of applicants for licenses;

(c) deny, revoke, or suspend licenses for good cause, after notice and opportunity to be heard;

(d) reinstate licenses previously revoked when justification is shown to the satisfaction of the board; and

(e) generally perform duties which will carry out this chapter.

~~(10)~~~~(12)~~(11) The board shall pay to the department its share of the assessed costs of the department in

administering this chapter."

Section 5. Section 37-43-203, MCA, is amended to read:

"37-43-203. Disciplinary authority -- injunctions. (1)

The board may adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by the board must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) A The board may maintain an action to enjoin a person from engaging in the drilling, making, or construction of water wells or monitoring wells or installing pumping equipment until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court."

Section 6. Section 37-43-301, MCA, is amended to read:

"37-43-301. Licensed contractor person to supervise all construction. (1) Any firm, corporation, or partnership may engage in the business of constructing water wells provided a licensed water well contractor is placed in charge of all water well construction.

~~(2) Any firm, corporation, or partnership may engage in the business of installing pumping equipment provided a licensed pump installer is in charge of installing the pumping equipment.~~

~~(3)(2)~~ The licensed water well contractor must be the individual who contracts on behalf of the firm, corporation, or partnership.

~~(4)(3)~~ A licensed water well driller, pursuant to 37-43-305, must be employed by a licensed water well contractor."

Section 7. Section 37-43-302, MCA, is amended to read:

"37-43-302. License required. (1) The drilling, making, or construction of water wells ~~into the groundwater resources of this state~~ and monitoring wells ~~and the installation of pumping equipment~~ is declared to be a business and activity affecting the public interest, requiring reasonable standards of competence. Except as provided in subsection (2), it is unlawful for any water well contractor, or water well driller, OR monitoring well constructor, or pump installer, as defined in this chapter,

to construct, alter, or rehabilitate a water well or a monitoring well ~~or to install pumping equipment~~ without first having obtained a valid license therefor as provided for in this chapter. An individual who is licensed as a water well contractor is not required to have a separate water well driller's license to perform the actual construction work on the well.

(2) A license is not required for:

(a) a person who drills, alters, or rehabilitates a water or monitoring well on land that is owned or leased by him, and provided:

(i) the land is used by him for farming, ranching, or agricultural purposes or as his residence; and

(ii) the person who obtains a permit from the board; and

(iii) the construction of the well conforms to the minimum construction standards for water or monitoring wells and installation of pumping equipment set by board rule; or

(b) ~~a person~~ an apprentice water well driller who performs labor or services for a licensed water well contractor or driller in connection with the drilling of a water well at the direction and under the personal supervision of a licensed water well contractor or driller, ~~or~~

~~(c) a well owner who installs his own pumping~~

1 equipment--in--a--well--used--by--him--on--land--he--owns--or--leases,
 2 provided:
 3 (i)--the--land--is--used--by--the--well--owner--for--farming,
 4 ranching,--or--agricultural--purposes--or--as--the--well--owner's
 5 residence,
 6 (ii)--the--well--owner--obtains--a--permit--from--the--board,
 7 and
 8 (iii)--the--pump--installation--conforms--to--the--minimum
 9 pumping--equipment--installation--standards--set--by--board--rule.
 10 (3) (a) To obtain a permit under subsection (2)(a) or
 11 (2)(c), a person shall file with the department an
 12 application containing the applicant's name, mailing
 13 address, the location of the proposed well, the nature of
 14 the applicant's ownership interest in the property on which
 15 the well is to be drilled located, the construction or
 16 installation method to be used, and the use for the proposed
 17 well.
 18 (b) The board shall promptly issue a permit if it
 19 finds that:
 20 (i) the applicant-intends-to-drill-the well is located
 21 on land that he the applicant owns or leases and that he
 22 uses for farming, ranching, or agricultural purposes or as
 23 his residence; and
 24 (ii) the construction or installation method to be used
 25 meets the minimum standards for water wells or--pumping

1 equipment set by board rule."

2 Section 8. Section 37-43-303, MCA, is amended to read:
 3 "37-43-303. Application -- fee. (1) Except as provided
 4 in 37-43-302(2), a person desiring to engage in the
 5 drilling, making, or construction, alteration, or
 6 rehabilitation of one or more water or monitoring wells for
 7 underground water or--the--installation--of--pumping--equipment
 8 in--water--wells in this state shall first file an application
 9 with the department for a contractor's-or-driller's license,
 10 setting---out--his. The application must set forth the
 11 applicant's qualifications, the equipment proposed to be
 12 used in the contracting, and other matters required by the
 13 board on forms adopted by the board.

14 (2) The department shall charge a fee prescribed by
 15 the board for filing the an application of--a--person. The
 16 application shall not be acted on until the fee has been
 17 paid. Fees collected under this section shall be deposited
 18 in the state special revenue fund for the use of the board.

19 (3) A An appropriate license to-construct-water-wells
 20 shall be issued to an applicant if, in the opinion of the
 21 board, the applicant is qualified to conduct water well or
 22 monitoring well construction operations or--pumping--equipment
 23 installation. In the granting of licenses, the board shall
 24 have due regard for the interest of this state in the
 25 protection of its underground waters."

Section 9. Section 37-43-305, MCA, is amended to read:

"37-43-305. Examination and qualifications. (1) Under board rules pertaining to the business of drilling and contracting for drilling of water wells which--the--board adopts and monitoring wells and--the--business--of--pump installation, the department shall inquire by examination or otherwise into the qualifications of applicants for licenses to-drill-or-make-wells-for--the--production--of--underground waters-in-this-state. Examinations may be oral, written, or both.

(2) The qualifications required--by--the-board for a water well contractor's license are:

(a) familiar knowledge of groundwater laws of this state and sanitary standards for water well drilling and construction of water wells;

(b) knowledge of types of water well construction;

(c) knowledge of types of drilling tools and their uses;

(d) knowledge of underground geology in its relation to well construction;

(e) possession of adequate equipment by the applicant to complete satisfactory water wells under the standards of the board;

(f) financial responsibility of the applicant;

(g) successful completion of an examination given by

the department; and

(h) ~~the--applicant--must--have--completed--a--minimum--of--1~~ year completion of an apprenticeship of 1 year or more under the direct supervision of a licensed water well contractor.

(3) The qualifications for a water well driller's license are:

(a) familiar knowledge of groundwater laws of this state and sanitary standards for water well drilling and water well construction;

(b) knowledge of types of water well construction;

(c) knowledge of types of drilling tools and their uses;

(d) knowledge of geology in its relation to well construction;

(e) employment by a licensed water well contractor;

(f) completion of an apprenticeship of 1 year or more under the direct supervision of a licensed water well contractor or driller; and

(g) successful completion of an examination given by the department.

~~(4)--The--qualifications--for--a--pump--installer's--license~~ are:

~~(a)--familiar--knowledge--of--groundwater--laws--of--this~~ state-and-sanitary-standards-for-pump-installation;

~~(b)--knowledge--of--construction--installation--and~~

1 repair-of-water-well-pumps, water--pressure--storage--tanks,
 2 connecting-piping, and-related-appurtenances;
 3 (c)--possession--of-adequate-equipment-by-the-applicant
 4 to-properly-install-pumping-equipment;
 5 (d)--financial-responsibility-of-the-applicant;
 6 (e)--1-or-more-years-of--experience--under--the--direct
 7 supervision--of--a-licensed-pump-installer-or-licensed-water
 8 well-contractor; and
 9 (f)--successful-completion-of-an-examination--given--by
 10 the-department;
 11 (5)(4) The qualifications for a license to construct
 12 monitoring wells are:
 13 (a) familiar knowledge of groundwater laws of this
 14 state and sanitary standards for drilling and construction
 15 of monitoring wells;
 16 (b) knowledge of types of monitoring well
 17 construction;
 18 (c) knowledge of types of drilling tools used for
 19 monitoring wells and their uses;
 20 (d) knowledge of geology;
 21 (e) financial responsibility of the applicant;
 22 (f) 1 or more years of experience in drilling
 23 monitoring wells under the direct supervision of a licensed
 24 monitoring well constructor; and
 25 (g) successful completion of an examination related

1 specifically to drilling of monitoring wells given by the
 2 department.

3 (2)(6)(5) The department shall give examinations at
 4 times and places the board determines. Failure of an
 5 applicant to successfully complete the examination
 6 disqualifies him from making further application for a
 7 period of 3 months. The board shall act within a reasonable
 8 time on applications for licenses. An application shall be
 9 accompanied by the initial fee, and failure to successfully
 10 meet the requirements of the board does not entitle the
 11 applicant to a refund of the fee."

12 Section 10. Section 37-43-306, MCA, is amended to
 13 read:

14 "37-43-306. Bond to be required. (1) The department,
 15 on issuance of a contractor's water well contractor's OR
 16 monitoring well constructor's, or pump-installer's license
 17 under this chapter, shall require, before the person
 18 commences operations in this state, a good and sufficient
 19 surety bond or in--lieu--thereof its equivalent in a
 20 certificate of deposit, cashier's check, bank draft, or
 21 certified check, to be approved by the board, in the penal
 22 sum of \$4,000, conditioned that the licensee will comply
 23 with the rules of the board.

24 (2) A person who is licensed in more than one category
 25 need supply only one surety bond or its equivalent in a

1 certificate of deposit, cashier's check, bank draft, or
 2 certified check, to be approved by the board, for \$4,000."

3 Section 11. Section 37-43-307, MCA, is amended to
 4 read:

5 "37-43-307. Annual renewal -- fee -- revocation for
 6 nonrenewal. (1) The term for licenses issued under this
 7 chapter is from July 1 of each year through the following
 8 June 30. After the payment of the initial fee under
 9 37-43-303, a licensee shall pay, before the first day of
 10 each license year, a renewal fee as prescribed by the board.

11 (2) If a licensee does not apply for renewal of his
 12 license before the first day of a license year and remit to
 13 the department the renewal fee, he shall have his license
 14 suspended by the board. If the license remains suspended for
 15 a period of more than 30 days after the first day of a
 16 license year, it shall be revoked by the board. However, the
 17 department, prior to this revocation, shall notify the
 18 licensee of the board's intention to revoke at least 10 days
 19 prior to the time set for action to be taken by the board on
 20 the license, by mailing notice to the licensee at the
 21 address appearing for the licensee in the records and files
 22 of the department. A license once revoked may not be
 23 reinstated unless it appears that an injustice has occurred
 24 indicating to the board that the licensee was not guilty of
 25 negligence or laches. If a person whose license has been

1 revoked through his own fault desires to engage in the
 2 business of water well drilling, OR monitoring well
 3 construction,--or--pump--installation in this state or
 4 contracting therefor, he must apply under 37-43-303 and
 5 37-43-304. Notice of suspension shall be given a licensee
 6 when the suspension occurs."

7 Section 12. Section 37-43-308, MCA, is amended to
 8 read:

9 "37-43-308. Reciprocity. If a person holding a license
 10 entitling him to drill water wells or--install--pumping
 11 equipment in another state applies for a Montana water well
 12 contractor's, OR water well driller's,--or--pump--installer's
 13 license, the board may waive the apprenticeship requirements
 14 and examination requirements if it finds that the standards
 15 and requirements of the state in which the applicant is
 16 licensed are equal to or exceed those of Montana. However,
 17 the board may require the applicant to successfully complete
 18 an examination based on Montana statutes and rules relating
 19 to the drilling of water wells and--installation--of--pumping
 20 equipment in this state."

21 Section 13. Section 37-43-312, MCA, is amended to
 22 read:

23 "37-43-312. Penalty. Any person who shall willfully
 24 violate any lawful rule or order of the board or who shall
 25 engage in the business of drilling, or--making MAKING,

1 altering, or rehabilitating water wells or monitoring wells
 2 or---installing---pumping---equipment without first having
 3 obtained a license as in this chapter required or who shall
 4 violate any provision of this chapter shall be guilty of a
 5 misdemeanor and upon conviction shall be subject to a fine
 6 of not more than \$500 or imprisonment in a county jail for a
 7 term not exceeding 6 months, or both. Any violation of this
 8 chapter shall be prosecuted by the county attorney in the
 9 county in which the violation occurred or is occurring, and
 10 the trial thereof shall be held in that county."

11 Section 14. Section 37-43-401, MCA, is amended to
 12 read:

13 "37-43-401. No action or counterclaim to be maintained
 14 except by licensee. No action or counterclaim shall be
 15 maintained by any water well contractor, water well driller,
 16 OR monitoring well constructor, or pump installer in any
 17 court in this state with respect to any agreement, work,
 18 labor, or materials for which a license is required by this
 19 chapter or to recover the agreed price or any compensation
 20 under any such agreement or for any such work, labor, or
 21 materials for which a license is required by this chapter
 22 without alleging and proving that such water well
 23 contractor, water well driller, OR monitoring well
 24 constructor, or pump installer had a valid license at the
 25 time of making such agreement and of supplying such labor,

1 work, or materials."

2 Section 15. Section 37-43-402, MCA, is amended to
 3 read:

4 "37-43-402. Completion of contracts by successor in
 5 interest of licensed-contractor licensee. Upon the transfer
 6 by operation of law to the successor in interest of a
 7 licensed water well contractor's, OR monitoring well
 8 constructor's, or pump installer's rights under a contract
 9 or agreement for the drilling, or making, or construction of
 10 a water well or wells, monitoring well or the installation
 11 of pumping equipment, the successor in interest to such
 12 rights shall be permitted to engage in the business of
 13 drilling, making, or construction of water wells or
 14 monitoring wells or the installation of pumping equipment to
 15 the extent necessary to perform the obligations of said
 16 licensed water well contractor licensee under such contract
 17 or agreement, provided that such engagement in business
 18 shall be under the supervision of a licensed water well
 19 contractor, pump installer, or monitoring well constructor."

20 NEW-SECTION:--Section-16--Initial-licensure-as-a-pump
 21 installer,--(1)--An-applicant-who-submits-an-application-for
 22 a-pump--installer's--license--before--June--17--1988--shall
 23 receive-a-license-if-the-applicant:

24 (a)--successfully--completes--an-examination-for-a-pump
 25 installer's-license-administered-by-the-board;

~~(b) submits evidence satisfactory to the board demonstrating that he was actively engaged in the business of installing pumping equipment or employed as a pump installer for the 2 years immediately preceding July 1, 1987;~~

~~(c) pays a fee established by the board pursuant to 37-43-303; and~~

~~(d) provides a bond in compliance with 37-43-306;~~

~~(2) An applicant who submits an application for a pump installer's license after May 31, 1988, shall meet the requirements of 37-43-303, 37-43-305, and 37-43-306.~~

NEW SECTION. Section 16. Initial licensure as a monitoring well constructor. (1) An applicant who submits an application for a monitoring well constructor's license before June 1, 1988, shall receive a license if the applicant:

(a) is a licensed water well contractor or is engaged in installing monitoring wells;

(b) provides verification of 1 or more years' experience in drilling monitoring wells within the 4 years preceding the application;

(c) pays a fee established by the board under 37-43-303;

(d) successfully completes the examination for monitoring well installation; and

(e) provides a bond in compliance with 37-43-306.

(2) An applicant who applies for a monitoring well constructor's license after May 31, 1988, shall meet the requirements of 37-43-303, 37-43-305, and 37-43-306.

NEW SECTION. Section 17. Licensed monitoring well constructor to supervise all construction of monitoring wells. (1) Any firm, corporation, or partnership may engage in the business of constructing or installing monitoring wells provided a licensed monitoring well constructor is in charge of all monitoring well installation.

(2) The licensed monitoring well constructor must be physically present at the site throughout the construction of the monitoring well.

NEW SECTION. Section 18. Repealer. Section 37-43-304, MCA, is repealed.

NEW SECTION. Section 19. Extension of authority. Any existing authority of the board of water well contractors to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 20. Codification instruction. Sections 16 through 18 AND 17 are intended to be codified as an integral part of Title 37, chapter 43, part 4 3, and the provisions of Title 37, chapter 43, part 4 3, apply to sections 16 through 18 AND 17.

NEW SECTION. Section 21. Effective date. This act is

HB 0831/03

1 effective July 1, 1987.

-End-

STANDING COMMITTEE REPORT

SENATE

March 18

87

MR. PRESIDENT

We, your committee on... NATURAL RESOURCES

having had under consideration... HOUSE BILL

No. 831

THIRD reading copy (BLUE)
color

REQUIRES LICENSING OF WELL PUMP INSTALLERS & MONITORING WELL
CONSTRUCTORS

HOLLIDAY (GALT)

respectfully report as follows: That... HOUSE BILL

No. 831

BE AMENDED AS FOLLOWS:

Page 18, line 25.

Following: "~~7-er-making~~"

Insert: "making,"

Page 22, line 22.

Following: "part"

Strike: "4"

Insert: "3"

Page 22, line 23.

Following: "part"

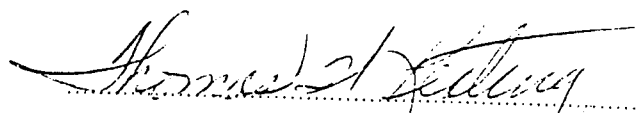
Strike: "4"

Insert: "3"

AND AS AMENDED
CONCURRED IN

XXX
PASS

XXXXXX
NOT PASS


SENATOR THOMAS F. KEATING, Chairman.

3-18-87
3:44